

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO.:

CHRISTOPHER JAMES NODELL,
MICHAEL PEREZ,
JOSHUA GARBER,

Plaintiffs,

v.

NICKY'S RESTAURANT EQUIPMENT
LLC D/B/A STROMBOLI PIZZA,
NICHOLAS MALTESE,

Defendants.

COMPLAINT

{Jury Trial Demanded}

Plaintiffs CHRISTOPHER JAMES NODELL (“Nodell”), MICHAEL PEREZ (“Perez”), and JOSHUA GARBER (“Garber”) bring this action against Defendants NICKY'S RESTAURANT EQUIPMENT LLC D/B/A STROMBOLI PIZZA (“Stromboli Pizza”) and NICHOLAS MALTESE (“Maltese”) and allege as follows:

1. This is an action arising under the Fair Labor Standards Act 29 U.S.C. §§ 201-219 (“FLSA”). Jurisdiction is conferred on this Court by 28 U.S.C. § 1331 and 29 U.S.C. § 216(b).
2. At all times material hereto, Plaintiffs were residents of Florida and “employees” of Defendants as defined by the FLSA.
3. At all times material hereto, Stromboli Pizza was a Florida corporation that regularly transacted business in Broward County, Florida.
4. Upon information and belief, Stromboli Pizza's gross sales or business done was in excess of \$500,000 per year at all times material hereto.

5. Maltese is an FLSA employer as defined in 29 U.S.C. § 203(d), is an owner and/or manager of Stromboli Pizza, ran the day-to-day operations and had operational control over Stromboli Pizza, and was directly involved in decisions affecting duties, employee compensation, and hours worked by employees, such as Plaintiffs.

6. Stromboli Pizza was an enterprise engaged in commerce or the production of goods for commerce and is covered by the FLSA at all times material hereto.

7. Stromboli Pizza's business involves restaurant operations.

8. Defendants have employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce including but not limited to computers, phones, pens, and paper.

9. Nodell worked for Defendants as a pizza maker and cook.

10. Perez worked for Defendants as a pizza maker and cook.

11. Garber worked for Defendants as a pizza maker and driver.

12. Defendants failed to pay Nodell's full and proper overtime wages.

13. Defendants failed to pay Perez's full and proper overtime wages.

14. Defendants failed to pay Garber's full and proper overtime wages.

15. Defendants knowingly and willfully refused to pay Plaintiffs' legally-entitled wages.

16. Attached as **Exhibit A** is a preliminary calculation of Nodell's claims. These amounts may change as Plaintiffs engage in the discovery process.

17. Attached as **Exhibit B** is a preliminary calculation of Perez's claims. These amounts may change as Plaintiffs engage in the discovery process.

18. Attached as **Exhibit C** is a preliminary calculation of Garber's claims. These amounts may change as Plaintiffs engage in the discovery process.

19. Plaintiffs retained the services of the undersigned and are obligated to pay for the legal services provided.

COUNT I
VIOLATION OF THE FAIR LABOR STANDARDS ACT
AGAINST ALL DEFENDANTS

20. Plaintiffs reallege and incorporate the allegations set forth in paragraphs 1-19 above as if set forth herein in full.

21. Plaintiffs allege this action pursuant to the Fair Labor Standards Act, 29 U.S.C. §§ 216 (b), that Plaintiffs are entitled to: (i) time-and-a-half overtime pay and (ii) liquidated damages pursuant to the Fair Labor Standards Act, 29 U.S.C. §§ 201 et seq.

22. Plaintiffs seek recovery of damages as referenced above and further seek interest, costs, and attorneys' fees pursuant to 29 U.S.C. § 216(b).

WHEREFORE, Plaintiffs demand judgment against Defendants, jointly and severally, plus costs, reasonable attorneys' fees, and such other remedy as the court deems just and appropriate.

Respectfully submitted,

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